| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/708,722 | 11/09/2000 | Stephan J. Jourdan | 2207/9800 | 2194 |

25693          7590          11/02/2009
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| EXAMINER |
|---|
| LI, AIMEE J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2183 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/02/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
|---|---|---|
| **Advisory Action**<br>**Before the Filing of an Appeal Brief** | 09/708,722 | JOURDAN ET AL. |
| | Examiner | Art Unit |
| | AIMEE J. LI | 2183 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED <u>19 October 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

     See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Aimee J Li/
Primary Examiner, Art Unit 2183

U.S. Patent and Trademark Office

Continuation of 11. does NOT place the application in condition for allowance because:  Applicant argues in essence on pages 8-10 "Applicants submit…does not teach or suggest at least '…wherein a conditional branch causing program flow to jump from a first location i na first instruction stream to a second location in a second instruction stream causes a terminal instruction from the second instruction stream to be stored in a first position of a cache line'…".  This has not been found persuasive.  The Applicants' argue each individual section alone and assert that each section, alone, does not teach the limitations.  However, as explained in the Office Action, all sections need to be read together, in context, to fully understand the teachings of Peleg.  The limitation in question requires understanding of each of the sections cited to show how the limitation is taught.  As explained in the previous Office Action, Peleg teaches in column 4, lines 11-23 that "a basic block comprises instructions…which are unconditionally and consecutively executed."  The basic block has a "first instruction following a branch instruction and its last instruction is a branch instruction.  Branch isntructions include both unconditional branches (e.g., call, return) and conditional branches…"  So, the basic blocks begin with a first instruction after a branch and ends with a conditional branch, which changes the program flow by jumping from one basic block to another basic block.  Peleg's Figure 5A and 5B shows the order of execution of a group of basic blocks, and it shows that exiting branches, which includes conditional branches, changes program flow.  Figure 5A shows BB1 begins at A1, then BB2 begins at A12, then BB3 goes backwards and begins at A3, etc.  Figure 5A also shows that BB5 has only a single instruction, since it begins and ends at A24.  This means that the instruction at A24 in BB5 is the first instruction of BB5, i.e. the instruction after a branch, and the ending instruction of BB5, i.e. the branching instruction.  So, when BB5 is stored, only this single instruction is stored.  Figure 11, element 75 and column 10, lines 25-42 shows and explains that when BB5 is stored in a buffer, it is stored in the first location in buffer line 75 when BB5 is executed after it is jumped to by the exit branch from BB2.